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Re: Massachusetts Electric Company, D.T.E. 03-55 (Terms and Conditions for
GreenUp Service, M.D.T.E. No. 1067-A)

Dear Attorneys Robinson and Lee:

I. INTRODUCTION

On May 9, 2003, pursuant to G.L. c. 164, § 94 and 220 C.M.R. §§ 5.00 et seq., Massachusetts Electric Company (“MECo” or “Company”) submitted to the Department of Telecommunications and Energy (“Department”) a proposed Renewable Energy Upgrade Service (“REUSE”) program. In support of its proposal, MECo filed: (1) a Filing Letter; (2) a Memorandum in Support of Filing of Submitting Parties (“Joint Memorandum”);¹ (3) Terms and Conditions for Renewable Energy Upgrade Service, M.D.T.E. No. 1067; and (4) a REUSE Supplier Service Agreement. The Department docketed this filing as D.T.E. 03-55. On June 25, 2003, the Company submitted revisions to its initial filing which, among other things, changes the name of the proposed program to GreenUp Service. In support of its revised proposal, MECo filed: (1) a Filing Letter; (2) a revised tariff, Terms and Conditions for GreenUp Service, M.D.T.E. No. 1067-A (“Terms and Conditions”); and (3) a GreenUp

¹ The Joint Memorandum was signed by: MECo, Nantucket Electric Company, the Massachusetts Division of Energy Resources, the Massachusetts Technology Park Corporation d/b/a Massachusetts Technology Collaborative, Conservation Law Foundation, Associated Industries of Massachusetts, Center for Ecological Technology, Community Energy Inc., Conservation Services Group, Inc., Green Mountain Energy Company, Massachusetts Energy Consumers Alliance, and Sterling Planet, Inc.

Service Supplier Agreement.² MECo requests approval of its proposed tariff, M.D.T.E. No. 1067-A. In addition, pursuant to 220 C.M.R. § 11.08, MECo requests an exception from certain provisions of the Department's Information Disclosure Requirements contained in 220 C.M.R. § 11.06, in order to implement the GreenUp Service program as proposed.

On June 5, 2003, Community Energy, Inc. filed comments on the GreenUp Program. On June 20, 2003, the Department conducted a technical conference.

II. DESCRIPTION OF THE GREENUP PROGRAM

The GreenUp Service program ("GreenUp Program" or "Program") is intended to provide renewable energy product options to those residential and small commercial and industrial ("C&I") customers that receive standard offer or default service from the Company (Terms and Conditions at 2-3). Through participation in the Program, a customer will have the opportunity to purchase a "green" standard offer or default service product that includes a level of renewable resources that exceeds the level included in MECo's existing products (*id.*).³ MECo will continue to serve as the customer's standard offer or default service provider, and will continue to send electric bills to these customers (*id.* at 4). However, the customer will have the opportunity to select among Program suppliers that will, for an agreed-upon price above the existing standard offer or default service rates, purchase additional renewable resources on the customer's behalf (*id.* at 2-3). The Program will also provide residential and small C&I customers an opportunity to participate in a program offered by the Massachusetts Technology Park Corporation that would allow these customers to claim a "renewable energy" tax deduction on their federal tax forms (Joint Memorandum at 2).

MECo proposes to insert educational and marketing material regarding the GreenUp Program in its customers' electric bills (Filing Letter at 4). The bill inserts will describe the Program, identify the Program suppliers and the products being offered, and provide a customer reply card for those customers who wish to participate. The reply card will allow the customer to: (1) select a supplier (and product, if the supplier is offering multiple products);

² The Department, on its own motion, moves the documents included in MECo's May 9, 2003 and June 25, 2003 filings into the record of this proceeding.

³ The Massachusetts Renewable Portfolio Standards, promulgated by the Division of Energy Resources pursuant to M.G.L. c. 25A, § 11F, require that MECo's standard offer and default service resource portfolios (as well as the resource portfolios of competitive generation suppliers) include a minimum of one percent of new renewable resources during 2003, with annual increases of one-half of one percent for the years 2004 through 2009. See 225 C.M.R. §§ 14.00 et seq.

and (2) provide the information necessary to facilitate the customer “enrollment” transaction. Program suppliers must submit through the appropriate Electronic Business Transactions (“EBT”) (id., Terms and Conditions at 6-7).⁴

Once a customer successfully enrolls with a GreenUp Program supplier, MECo will provide the supplier the same monthly consumption, billing, and payment information for the customer that MECo provides to competitive generation suppliers for their customers (id. at 4-5). A customer participating in the Program will continue to receive monthly bills from MECo, with the generation component of the bill containing two line items: (1) a standard offer or default service charge, which will be the same rate paid by non-participants, and (2) a GreenUp Program charge, based on the price of the product that the customer has selected (id. at 12). MECo will collect payments from customers participating in the Program and pass on the Program component of these payments to the customers’ Program suppliers (id.). The Program suppliers are then obligated to purchase renewable resources in quantities sufficient to satisfy their product offerings (id. at 9-10).

MECo requires that GreenUp Program suppliers meet three criteria in order to participate in the program. First, they need to be licensed by the Department as an electricity broker, pursuant to 220 C.M.R. § 11.05 (id. at 5). Second, they need to complete testing of the EBTs, in accordance with the Department-approved EBT Working Group report (id.).⁵ Finally, Program suppliers must demonstrate that their product offerings are consistent with either (1) a “Fixed Block Option,” in which a customer would purchase a pre-determined amount of renewable energy, expressed in kilowatt hours per month, or (2) a “Percentage of Energy Option,” in which a customer would purchase an amount of renewable energy equal to a percentage of the customer’s monthly electricity usage, with a minimum level of 25 percent (id. at 7).

The GreenUp Program includes a new protocol for the manner in which MECo would comply with the Department’s Information Disclosure Requirements contained in 220 C.M.R. § 11.06 (Terms and Conditions App. A at 4-7; Joint Memorandum at 6). Currently, MECo prepares an information disclosure label to its standard offer and default service customers that includes the price, fuel source, emissions, and labor characteristics of the resource portfolio used by MECo in the provision of these services. 220 C.M.R. § 11.06(2). MECo’s disclosure labels are updated and included in the electric bills of these customers on a quarterly

⁴ The EBT enrollment transaction to be used by GreenUp suppliers is the same transaction used by competitive suppliers to enroll customers.

⁵ This is necessary because GreenUp suppliers and MECo will exchange data using the EBTs, similar to the manner in which data is exchanged between MECo and competitive generation suppliers.

basis. MECO would continue to abide by these provisions for those standard offer and default service customers that do not participate in the GreenUp Program (Terms and Conditions at 11). However, for customers participating in the Program, MECo proposes a protocol that differs from the above provisions of 220 C.M.R. § 11.06 in two principal ways. In order to implement this new protocol, MECo requests an exception from certain provisions of 220 C.M.R. § 11.06, pursuant to 220 C.M.R. § 11.08 (Terms and Conditions App. A at 3-7).

First, for a customer participating in the GreenUp Program, the price, fuel source, emissions, and labor information included on the disclosure label would be based on the resource portfolio used by the customer's Program supplier in the provision of its product offering (*i.e.*, the label prepared for a Program participant receiving standard offer would differ from the label prepared for a non-participant receiving standard offer) (*id.* at 5).⁶ Second, Program suppliers, not MECo, would be responsible both for preparing and providing disclosure labels to their Program customers on a quarterly basis (*i.e.*, the labels sent to Program participants would not be included in their electric bills from MECo; instead the label would be included in mailings sent by Program suppliers) (*id.* at 1-7).

Finally, the GreenUp Program would use the New England Generation Information System ("NE-GIS"), to verify that Program suppliers have satisfied the renewable resource claims included in their product offerings (*id.* at 5). NE-GIS is a certificate-based system that is intended to provide competitive generation suppliers throughout New England with an efficient means of demonstrating compliance with a variety of state policies and regulations, such as information disclosure requirements and renewable portfolio standards. New England Generation Information System, D.T.E. 03-62, at 1-2 (2003). NE-GIS creates a certificate for every megawatt produced by each generating unit located in New England. The certificates issued to a generator lists all of the generator's non-price attributes required for reporting by the various New England states.⁷ For each quarter of the calendar year, NE-GIS provides for a two-month trading period during which suppliers serving retail load in New England can purchase certificates issued to generators during the quarter. GreenUp Program suppliers would be required to purchase renewable energy certificates through NE-GIS in quantities

⁶ The price listed on the disclosure label would be the bundled price of the Program supplier's product (*i.e.*, the sum of MECo's standard offer or default service rate and the supplier's price) (Terms and Conditions App. A at 5). Other Program supplier-specific information to be included on the label are (1) the terms and conditions of the supplier's contract with the customer, and (2) the toll-free number of the supplier (Terms and Conditions, App. A at 4-6).

⁷ For example, NE-GIS certificates include all of the fuel source, emissions, and labor information required by 220 C.M.R. § 11.06.

sufficient to satisfy their product offerings (Terms and Conditions at 9-10).⁸

B. Company and Stakeholder Positions

The Joint Memorandum states that the GreenUp Program is designed to (1) introduce new opportunities for standard offer and default service customers to support the growth of renewable energy resources, and (2) expand the number of retail suppliers offering renewable energy alternatives, thus facilitating “the development of the retail market for renewable energy” (Joint Memorandum at 4). In addition, MECo states the Program should facilitate the transition to an active competitive market for smaller customers because it will (1) introduce these customers to the concept and benefits of choice in the marketplace, and (2) help to eliminate the barriers to entry faced by competitive suppliers in the market for smaller customers by providing a “cost-effective platform” to access and market competitive services to these customers (id. at 5).

The Joint Memorandum states that, for the following reasons, the GreenUp Program is consistent with the Department’s requirement that a distribution company that seeks to provide a ‘green’ product to its default service and standard offer customers “clearly demonstrate that providing such a product is compatible with the development of competitive options for the customer classes to which the product would be available” (id. at 4-5). See Procurement of Default Service, D.T.E. 02-40-B at 46 (2003). First, the Program will be available only to residential and small C&I customers, the customer classes identified by the Department as under served by the competitive market (id. at 5-6). Second, customers participating in the Program may leave the Program at any time, thus allowing customers to realize “the benefits of choice in the marketplace without the danger of customers being locked into their choices for any length of time” (id. at 5). Third, Program suppliers will be subject to similar regulatory requirements associated with licensing, information disclosure, and electronic data transfer as are competitive suppliers (id. at 5).

With respect to the exceptions requested from certain provision of 220 C.M.R. § 11.06, the Company argues that allowing GreenUp Program suppliers to prepare and issue the environmental disclosure label directly to their retail customers: (1) is consistent with the intent of the regulations; (2) documents to customers participating in the Program “that their contributions are making a difference in the growth, development and use of renewable energy resources,” (3) assures that Program suppliers are treated consistently with competitive suppliers providing renewable energy; and (4) is necessary to ensure that the Program

⁸ To qualify as a GreenUp Program renewable energy certificate, a NE-GIS certificate must be designated as complaint with (1) Massachusetts Renewable Energy Portfolio Standards, and/or (2) the New England specific Green-e standards for renewable resources (Terms and Conditions at 3).

suppliers perform under their contracts with their retail customers (id. at 6-8).

III. ANALYSIS AND FINDINGS

The Department addresses below: (1) whether the GreenUp Program is consistent with the directives from D.T.E. 02-40-B regarding “green products”; and (2) MECo’s request for an exception from certain provisions of the Department’s Information Disclosure Requirements contained in 220 C.M.R. § 11.06. In D.T.E. 02-40-B at 46, the Department stated that “a distribution company that seeks to provide a “green” product to its default service (and standard offer service) customers may submit a specific proposal to the Department for our review. Such proposal must clearly demonstrate that providing such a product is compatible with the development of competitive options for the customer classes to which the product would be available.” This is consistent with the Department’s statutory obligation to require distribution companies to “accommodate retail access to generation services and choice of suppliers by retail customers.” G.L. c. 164, §§ 1A, 1F.

For the reasons discussed below, the Department concludes the GreenUp Program is compatible with the development of competitive options for the applicable customer classes. First, the Program is available only to residential and small C&I customer that receive standard offer or default service from MECo. As the Department stated in D.T.E. 02-40-B at 46:

there are few competitive options for residential and small C&I customers, as evidenced by the fact that almost all residential and small C&I customers receive standard offer service or default service. In carrying out Legislative policy, the Department has created the basic framework for a market for these smaller customers, all of whom are free to choose competitive alternatives to standard offer service and default service, but we must be cognizant of the significantly different pace at which a competitive market is developing for smaller customers.

It is possible that limited competitive options will be available to these customers, “at least for the first few years after the end of the [standard offer] transition period.” Id. Thus, during the near-term, the ability to purchase green products through the GreenUp Program may represent the only competitive option that will be available to residential and small C&I customers. The Department concurs with assertion by MECo and the signatories to the Joint Memorandum that the implementation of the Program should assist in the development of a competitive market for these customers, because it will introduce them to the concept of choice.

Second, the provision in the GreenUp Program that allows a customer to leave the program at any time ensures that participation in the Program does not limit a customer’s ability to leave standard offer or default service and switch to a competitive generation

supplier. Third, the provision in the Program that calls for it to terminate when 20 percent of residential customers move to competitive supply ensures that, at such time that competitive options develop for smaller customers, the competitive market, and not distribution companies, will deliver “green” product offerings to customers. Finally, Program suppliers will be subject to similar regulatory requirements associated with licensing, information disclosure, and electronic data transfer as are competitive generation suppliers. This has two benefits in that these suppliers (1) will incur similar costs in meeting these requirements as generation suppliers, and (2) will be well-prepared to transition to generation suppliers at a future date. Therefore, the Department concludes that MECo has sufficiently demonstrated that the GreenUp Program is compatible with the development of competitive options for the residential and small C&I customer classes.

We next consider MECo’s request for an exemption from certain provisions of 220 C.M.R. § 11.06, in order to implement a new protocol by which GreenUp Program suppliers will prepare and issue the information disclosure labels to customers participating in the Program. The Department may, for good cause shown, grant an exemption to any provision of 220 C.M.R. § 11.00 et. seq. 220 C.M.R. § 11.08. The Department concludes that allowing Program suppliers to prepare and issue information environmental disclosure labels is in the public interest because it will (1) accurately document to customers the renewable product they are purchasing through participation in the Program, and (2) signify to customers that the product they are receiving is being provided by a Program supplier, and not MECo. Accordingly, we find MECo has demonstrated good cause and hereby grant the Company’s request for an exception on this matter. With respect to the use of NE-GIS data as the basis for Program suppliers’ information disclosure labels, the Department recently opened an inquiry, New England Generation Information System D.T.E. 03-62, into this very issue. The manner in which Program suppliers would use NE-GIS data is similar to the proposal included in D.T.E. 03-62. The Department finds it appropriate to allow Program suppliers to use NE-GIS data as proposed in the Terms and Conditions, until such time that the Department finalizes its policy guidelines in D.T.E. 03-62.

Accordingly, the Department approves the Terms and Conditions for GreenUp Service, M.D.T.E. No. 1067-A.

By Order of the Department,

Paul B. Vasington, Chairman

James Connelly, Commissioner

W. Robert Keating, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

cc: Mary Cottrell, Secretary
Joseph Rogers, Attorney General's Office
Signatories to the Memorandum of Support